

### **REMARKS/ARGUMENTS**

Claims 1-19 and 24-26 are now pending in this application. Claims 1 and 24 are independent claims. Claims 20-23 have been cancelled.

#### ***Claim Rejections – 35 USC § 112, 2<sup>nd</sup> Paragraph***

Claims 1-19 were rejected under 35 U.S.C. § 112, 2<sup>nd</sup> paragraph. Applicants traverse the rejection under this section pointing out that an applicant is entitled to be his or her own lexicographer (MPEP 2173.05a).

#### ***Claim Rejections – 35 USC § 103(a)***

Claims 1-16 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Fisher, USPN: 4,364,925 (hereinafter: Fisher) in view of Mohilef, USPN: 5,149,550 (hereinafter: Mohilef). (Pending Office Action, Page 3). Claims 17-19 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Fisher and Mohilef, further in view of Kerres, USPN: 4,270,464 (hereinafter: Kerres). (Pending Office Action, Page 7). Claims 24-26 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Kerres in view of Isenberg, USPN: 4,029,004 (hereinafter: Isenberg). (Pending Office Action, Page 9). Applicants respectfully traverse these rejections.

“To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations.” (emphasis added) (MPEP § 2143). “If an independent claim is non-obvious under 35 U.S.C. 103, then any claim depending therefrom is non-obvious.” (emphasis added) *In re Fine*, 837 F. 2d 1071, 5USPQ2d 1596 (Fed. Cir. 1988). Applicants state that none of the above-cited references either alone or in combination, either teach, suggest or disclose the above-referenced elements of the present invention.

Independent Claim 1 of the present invention generally recites a method for

processing a pet product, said method including: “mechanically defatting said animal peltry”. The Patent Office cited that Fisher does not teach the defatting step of the present invention, but that Mohilef teaches said defatting step. (Pending Office Action, Pages 4-5). However, Applicants point out that Mohilef teaches chemical defatting (Pending Office Action, Page 5, Mohilef, Abstract) while the present invention teaches mechanical defatting (ex. – via a plane). (Present Application, Page 6, Paragraph 0013). Unlike Mohilef, the present invention allows for defatting without having to use such chemicals and without having to worry about the disposal of such chemicals. Nowhere in any of the references cited by the Patent Office, either alone or in combination, are the above-referenced elements of the present invention disclosed, taught, or suggested.

Therefore, based on the above rationale, the cited references do not preclude patentability of the present invention under 35 U.S.C. § 103(a). As a result, a *prima facie* case of obviousness has not been established for Independent Claim 1. Thus, Independent Claim 1 is believed allowable. Further, Dependent Claims 2-19 (which depend from claim 1) are therefore allowable.

Independent Claim 24 of the present invention generally recites a smoking stove used for processing a pet product, said smoking stove including: “layers of shelves for placing animal peltry product.” The Patent Office cited the combination of Kerres and Isenberg as teaching the elements of Claim 24. (Pending Office Action, Page 9). The Patent Office admitted that Kerres *does not* teach the above-referenced elements (ex. – shelves for placing animal peltry product) of Claim 24, but stated that Isenberg *does* teach the above-referenced elements of Claim 24. (Pending Office Action, Page 9). Applicants counter by pointing out that the Patent Office has not made a *prima facie* case of obviousness because there would have been no motivation to combine Kerres with Isenberg to reject Claim 24 of the present application. Kerres teaches an apparatus/chamber (smoke generator) which contains a heating means for smoking food products which are placed within the chamber. (Kerres, Abstract and Column 1: Lines 45-69). In contrast, Isenberg teaches a portable rack device which contains a plurality of shelves upon which meat can be placed. Further, the portable rack device is configured for being rolled/moved along a rail so that it may be relocated to various stations within a

smoke house/meat curing facility, such as to a loading station, a cooling area, or a smoke room. (Isenberg, Abstract, Column 1: Lines 5-8, Column 3: Lines 18-23, and Column 6: Lines 42-45). The Patent Office stated that it would be obvious to modify the smoke generator/chamber of Kerres so that it would include the portable rack device of Isenberg. (Pending Office Action, Page 9). Applicants disagree, pointing out that the rack device of Isenberg is designed to be portable so that it may be easily transported to various stations within a meat curing facility and it stores the product so that said product may be exposed to different environments (ex. – into a cooler, smoke room, etc.). The rack device of Isenberg is not designed for being placed within the chamber of Kerres, and combining it with/placing it within the chamber of Kerres would nullify its above-referenced advantages. *“If proposed modification would render the prior art invention being modified unsatisfactory for its intended purpose, then there is no suggestion or motivation to make the proposed modification. In re Gordon, 733 F.2d 900, 221 USPQ 1125 (Fed. Cir. 1984).”* (MPEP § 2143.02). Therefore, Applicants state that it would not have been obvious to modify Kerres in view of Isenberg and that a prima facie case of obviousness has not been made against Claim 24, therefore claim 24 is allowable. Further Claims 25-26 which depend upon Claim 24 are therefore allowable.

### **CONCLUSION**

In light of the forgoing, reconsideration and allowance of the pending claims is earnestly solicited.

Appl. No. 10/786,896

Amendment and Response to the Office Action dated 02-20-08

Respectfully submitted,

Shicai Liu, et al.,

By: 

Jeffrey M. Andersen

Reg. No. 52,558

Dated: June 20, 2008

Jeffrey M. Andersen

SUITER • SWANTZ PC LLO

14301 FNB Parkway, Suite 220

Omaha, NE 68154

(402) 496-0300      telephone

(402) 496-0333      facsimile